

Adopted	Rejected
---------	----------

COMMITTEE REPORT

YES:	10
NO:	0

MR. SPEAKER:

*Your Committee on Education, to which was referred Senate Bill 191, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Between the enacting clause and line 1, begin a new paragraph and
- 2 insert:
- 3 "SECTION 1. IC 2-5-30 IS ADDED TO THE INDIANA CODE AS
- 4 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
- 5 PASSAGE]:
- 6 **Chapter 30. Indiana Soldiers' and Sailors' Children's Home**
- 7 **Commission**
- 8 **Sec. 1. As used in this chapter, "children's home" refers to the**
- 9 **Indiana Soldiers' and Sailors' Children's Home established by**
- 10 **IC 16-33-4-5.**
- 11 **Sec. 2. As used in this chapter, "commission" refers to the**
- 12 **Indiana Soldiers' and Sailors' Children's Home commission**
- 13 **established by section 3 of this chapter.**
- 14 **Sec. 3. (a) The Indiana Soldiers' and Sailors' Children's Home**
- 15 **commission is established to evaluate whether it is economically**

feasible to continue to operate the children's home after June 30, 2010, in an effective and efficient manner.

(b) The commission consists of the following nineteen (19) voting members:

(1) The governor or the governor's designee.

(2) The commissioner of the Indiana department of administration appointed under IC 4-13-1-2 or the commissioner's designee.

(3) The state health commissioner appointed under IC 16-19-4-2 or the state health commissioner's designee.

(4) The state superintendent of public instruction or the state superintendent's designee.

(5) The adjutant general appointed under IC 10-16-2-6 or the adjutant general's designee.

(6) The director of the department of child services appointed under IC 31-25-1-1 or the director's designee.

(7) One member who is a member of the American Legion appointed by the president pro tempore of the senate in accordance with a recommendation from the department adjutant of the American Legion Department of Indiana.

(8) One (1) member who is a representative of the Alumni Association of the Indiana Soldiers' and Sailors' Children's Home, appointed by the president pro tempore of the senate in accordance with a recommendation from the president of the Alumni Association of the Indiana Soldiers' and Sailors' Children's Home.

(9) The superintendent of the children's home or the superintendent's designee.

(10) One (1) member who is a member of the advisory committee for the Indiana Soldiers' and Sailors' Children's Home created by IC 16-19-6-9, appointed by the president pro tempore of the senate in accordance with a recommendation from the chair of the advisory committee.

(11) One (1) member who is a representative of IARCCA, An Association of Children and Family Services, appointed by the president pro tempore of the senate in accordance with a recommendation from the executive director of IARCCA.

(12) One (1) member who is a representative of the Indiana

1 **Association of School Business Officials, appointed by the**
2 **speaker of the house of representatives in accordance with a**
3 **recommendation from the executive director of the Indiana**
4 **Association of School Business Officials.**

5 **(13) The judge of the juvenile court of Marion County.**

6 **(14) One (1) member who is a representative of the vocational**
7 **school located at the children's home, appointed by the**
8 **speaker of the house of representatives in accordance with a**
9 **recommendation from the superintendent of the children's**
10 **home.**

11 **(15) One (1) member who is a parent or guardian of a child**
12 **currently residing at the children's home, appointed by the**
13 **speaker of the house of representatives in accordance with a**
14 **recommendation from the superintendent of the children's**
15 **home.**

16 **(16) One (1) member of the house of representatives**
17 **appointed by the speaker of the house of representatives.**

18 **(17) One (1) member of the house of representatives**
19 **appointed by the minority leader of the house of**
20 **representatives.**

21 **(18) One (1) member of the senate appointed by the president**
22 **pro tempore of the senate.**

23 **(19) One (1) member of the senate appointed by the minority**
24 **leader of the senate.**

25 **(c) The members appointed under subsection (b)(16) and (b)(18)**
26 **shall serve as co-chairs of the commission.**

27 **(d) If a legislative member of the commission ceases being a**
28 **member of the chamber from which the member was appointed,**
29 **the member also ceases to be a member of the commission.**

30 **(e) The commission shall hold at least one (1) meeting each**
31 **month. The commission may hold special meetings considered**
32 **necessary or expedient by either co-chair of the commission. The**
33 **commission must hold at least nine (9) meetings at the children's**
34 **home.**

35 **(f) Ten (10) commission members constitute a quorum. The**
36 **affirmative votes of at least ten (10) members of the commission is**
37 **necessary for the commission to make recommendations or adopt**
38 **a final report.**

1 (g) The commission may hold the regular meetings described in
2 subsection (e) at the children's home.

3 (h) The commission meetings are subject to the open door law
4 under IC 5-14-1.5.

5 (i) Except as provided in subsection (j), members of the
6 commission may not receive:

7 (1) a salary per diem;

8 (2) reimbursement for traveling expenses; or

9 (3) any other expenses actually incurred in connection with
10 the member's duties for the commission.

11 (j) Each member of the commission who is a state employee but
12 is not a member of the general assembly is entitled to
13 reimbursement for traveling expenses from the member's state
14 agency as provided under IC 4-13-1-4 and other expenses actually
15 incurred in connection with the member's duties as provided in the
16 state travel policies and procedures established by the Indiana
17 department of administration and approved by the budget agency.

18 Sec. 4. The commission shall do the following:

19 (1) Make recommendations in the report submitted under
20 section 5 of this chapter as to whether it is economically
21 feasible to continue to operate the children's home after June
22 30, 2010, in an effective and efficient manner. In making its
23 recommendations, the commission must consider the
24 following:

25 (A) The feasibility of reducing costs associated with
26 operation and maintenance of the children's home by
27 entering into a public-private agreement. If the
28 commission determines that a public-private agreement
29 should be established under this section, the commission
30 must develop recommended criteria for a request for
31 proposals for entering into a public-private agreement
32 under IC 5-23 for the operation of all or part of the
33 children's home.

34 (B) The availability and potential use of federal grants or
35 assistance provided under Title IV-E of the federal Social
36 Security Act to a:

37 (i) state entity; or

38 (ii) private entity in a public-private agreement;

- 1 **operating or managing the children's home.**
2 **(C) The availability and potential use of federal assistance**
3 **or grants provided under the No Child Left Behind Act of**
4 **2001 (20 U.S.C. 6301 et seq.) to a:**
5 **(i) state entity; or**
6 **(ii) private entity in a public-private agreement;**
7 **operating or managing the children's home.**
8 **(D) The availability and potential use of federal assistance**
9 **or grants, other than federal grants and assistance referred**
10 **to in clauses (B) and (C), that may be available to reduce**
11 **costs associated with the operation of the children's home**
12 **by a:**
13 **(i) state entity; or**
14 **(ii) private entity in a public-private agreement.**
15 **(E) The availability and potential use of funds or grants**
16 **from the federal American Recovery and Reinvestment**
17 **Act of 2009 or another federal economic stimulus law**
18 **enacted in 2009 to:**
19 **(i) maintain, renovate, or reconstruct buildings located**
20 **at the children's home; or**
21 **(ii) assist with the operation of the children's home.**
22 **(F) The feasibility of reducing operating or maintenance**
23 **costs for buildings located at the children's home by**
24 **entering into agreements for the use of buildings with:**
25 **(i) state or local governmental entities; or**
26 **(ii) private entities.**
27 **(G) The feasibility of meeting costs of the children's home**
28 **by allowing the children's home to receive transfer tuition**
29 **under IC 20-26-11.**
30 **(H) The current use of all funds maintained by the**
31 **children's home, including funds held on behalf of the**
32 **children's home by the state department of health or the**
33 **budget agency.**
34 **(I) The current fee structure for parents or guardians of**
35 **children residing at the children's home.**
36 **(J) The feasibility of increasing the use of the children's**
37 **home for the purpose of providing services to the children**
38 **of Indiana. The commission must make an assessment of:**

- 1 (i) the type of children who may benefit from services
- 2 provided by the children's home;
- 3 (ii) the changes to the structure or operation of the
- 4 children's home that would be necessary to improve
- 5 service to children who may benefit from placement in
- 6 the children's home;
- 7 (iii) potential methods to augment the enrollment of
- 8 children at the children's home; and
- 9 (iv) the feasibility of placing a child in need of services or
- 10 a delinquent child in the children's home by a court
- 11 order from a juvenile court judge or with the
- 12 recommendation of the department of child services.
- 13 (K) The feasibility of maintaining or increasing the use of
- 14 the vocational school located at the children's home.
- 15 (L) The feasibility of:
- 16 (i) maintaining or increasing the functional capacity of;
- 17 (ii) renovating or reconstructing; or
- 18 (iii) providing maintenance to;
- 19 buildings located at the children's home. The commission
- 20 shall consider whether any grants or financial assistance
- 21 may be available to preserve or restore the historic nature
- 22 of buildings.
- 23 (M) The feasibility of improving the education of the
- 24 children residing at the children's home. The commission
- 25 shall consider:
- 26 (i) special education;
- 27 (ii) alternative education; and
- 28 (iii) any other educational program that the commission
- 29 determines would increase the use of the children's home
- 30 and improve the education of the children residing at the
- 31 children's home.
- 32 (2) Evaluate the potential negative impact of the closure of the
- 33 children's home on the following:
- 34 (A) The children residing at the children's home,
- 35 including:
- 36 (i) children whose parents or guardians are currently
- 37 serving in the armed forces of the United States; and
- 38 (ii) children placed in the home after failing in the foster

- 1 care setting.
- 2 **(B) The employees of the children's home.**
- 3 **(C) The local economy.**
- 4 **(3) If the commission determines that it is not economically**
- 5 **feasible to continue to operate the children's home after June**
- 6 **30 , 2010, in an effective and efficient manner, the commission**
- 7 **must develop a plan for closing the children's home. The plan**
- 8 **must take into account the best interest of the children**
- 9 **residing at the home. The commission must consider the**
- 10 **following:**
- 11 **(A) The return of the child to the:**
- 12 **(i) parent or parents;**
- 13 **(ii) relative; or**
- 14 **(iii) guardian.**
- 15 **(B) The placement of a child by the department of child**
- 16 **services in:**
- 17 **(i) foster care;**
- 18 **(ii) therapeutic foster care; or**
- 19 **(iii) residential care.**
- 20 **(C) The use of community based services.**
- 21 **(D) Any other program or service the commission**
- 22 **determines would be in the best interest of the children**
- 23 **residing at the children's home.**
- 24 **Sec. 5. (a) Before January 1, 2010, the commission shall submit**
- 25 **a final report to the governor and the general assembly. The report**
- 26 **submitted to the general assembly shall be submitted in an**
- 27 **electronic format under IC 5-14-6.**
- 28 **(b) The report must include the following:**
- 29 **(1) The recommendations made by the commission under**
- 30 **section 4(1) of this chapter as to whether it is financially**
- 31 **feasible to effectively and efficiently operate the children's**
- 32 **home after June 30, 2010. The commission must include a**
- 33 **detailed summary of the commission's conclusions under**
- 34 **section 4(1)(A) through 4(1)(M) of this chapter.**
- 35 **(2) If the commission determines that it is not financially**
- 36 **feasible to effectively operate the children's home after June**
- 37 **30, 2010, the plan developed by the commission under section**
- 38 **4(3) of this chapter to effectively and efficiently close the**

1 children's home.

2 (3) Any recommendations the commission considers
3 necessary.

4 (4) Recommendations for legislative changes necessary to
5 implement any recommendations made under subdivisions (1)
6 through (3).

7 (5) A summary of the negative impact that closure of the
8 children's home will have on the following:

9 (A) The children residing at the children's home,
10 including:

11 (i) children whose parents or guardians are currently
12 serving in the armed forces of the United States; and

13 (ii) children placed in the home after failing in the foster
14 care setting.

15 (B) The employees of the children's home.

16 (C) The local economy.

17 **Sec. 6. The legislative services agency shall provide staff support**
18 **for the commission. The expenses of the commission shall be paid**
19 **from funds appropriated to the legislative council.**

20 **Sec. 7. This chapter expires July 1, 2010.**

21 SECTION 2. IC 16-19-6-5, AS AMENDED BY P.L.21-2008,
22 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
23 JANUARY 1, 2009 (RETROACTIVE)]: Sec. 5. (a) **Except as**
24 **provided in subsections (b) and (c),** the state health commissioner has
25 complete administrative control and responsibility for the Indiana
26 Soldiers' and Sailors' Children's Home.

27 (b) **This subsection applies for the period after December 31,**
28 **2008, and before July 1, 2010. Notwithstanding any other statute**
29 **or policy, the state health commissioner or the superintendent of**
30 **the home may not do the following unless specifically authorized by**
31 **a statute enacted by the general assembly:**

32 (1) **Terminate, in whole or in part, services provided by the**
33 **home on January 1, 2009, to Indiana children or other**
34 **operations that existed at the home on January 1, 2009.**

35 (2) **Reduce the staffing levels and classification below those in**
36 **effect at the home on January 1, 2009.**

37 (3) **Terminate the employment of any employee of the home**
38 **who was an employee after December 31, 2008, except in**

1 **accordance with IC 4-15-2.**

2 **The state department or the superintendent of the home shall fill**
 3 **any vacancy created by a termination described in subdivision (3)**
 4 **so that the staffing levels at the facility are not reduced below the**
 5 **staffing levels in effect on January 1, 2009.**

6 **(c) This subsection applies for the period after December 31,**
 7 **2008, and before July 1, 2010. Notwithstanding any other statute**
 8 **or policy, the state health commissioner shall not authorize the**
 9 **removal, sale, or destruction of:**

- 10 **(1) instructional or residential equipment;**
- 11 **(2) furnishings;**
- 12 **(3) records;**
- 13 **(4) tools;**
- 14 **(5) vehicles; or**
- 15 **(6) artifacts;**

16 **located at the children's home."**

17 Page 1, line 4, delete "Tuition for".

18 Page 1, line 6, delete "applies to a student who cannot be served"
 19 and insert **"does not apply to a student placed in an educational**
 20 **setting under the following:**

- 21 **(1) IC 20-30-8 (alternative programs for certain students);**
- 22 **(2) IC 20-33-8 (student discipline); or**
- 23 **(3) IC 20-33-8.5 (court assisted resolution of suspension and**
 24 **expulsion cases)."**

25 Page 1, delete lines 7 through 10.

26 Page 1, line 11, delete "school determines that the school is unable
 27 to teach" and insert **"school's principal determines that a disruptive**
 28 **student (as defined in IC 20-30-8-2) or a habitual truant (as defined**
 29 **in IC 20-33-2-11) would likely benefit:**

- 30 **(1) academically;**
- 31 **(2) behaviorally; or**
- 32 **(3) both academically and behaviorally;**

33 **from placement in a different educational setting than the**
 34 **principal's school, the principal may request the superintendent or**
 35 **superintendent's designee to seek an alternative placement for the**
 36 **student under this chapter."**

37 Page 1, delete lines 12 through 14.

38 Page 1, line 16, after "superintendent" insert **"or superintendent's**

- 1 **designee".**
- 2 Page 2, line 5, delete "superintendent:" and insert "**superintendent**
- 3 **or superintendent's designee:".**
- 4 Page 2, line 8, delete "4" and insert "**2**".
- 5 Page 2, line 24, delete "and" and insert "**or**".
- 6 Page 2, line 27, delete "expulsion." and insert "**proposed**
- 7 **placement.".**
- 8 Page 2, line 36, after "4." insert "**(a)**".
- 9 Page 2, line 38, after "superintendent" insert "**or superintendent's**
- 10 **designee".**
- 11 Page 2, line 40, delete "corporation that the" and insert
- 12 **"corporation;".**
- 13 Page 2, delete line 41.
- 14 Page 2, line 42, delete "school operated by the school corporation"
- 15 and insert "**education program (as defined in IC 20-30-8-1) within**
- 16 **another school corporation;".**
- 17 Page 3, delete lines 1 through 2.
- 18 Page 3, line 3, delete "corporation that the" and insert
- 19 **"corporation;".**
- 20 Page 3, delete line 4.
- 21 Page 3, line 5, delete "school that the superintendent determines
- 22 may" and insert "**school;**
- 23 **(5) an accredited nonpublic school that is nonsectarian and**
- 24 **nonreligious; or**
- 25 **(6) an alternative school operated by the juvenile court in that**
- 26 **county;**
- 27 **if the superintendent or superintendent's designee determines that**
- 28 **the placement would benefit the student academically or**
- 29 **behaviorally, or both.**
- 30 **(b) The:**
- 31 **(1) superintendent or superintendent's designee; or**
- 32 **(2) administrative authority;**
- 33 **of a school described in subsection (a) must consent before the**
- 34 **placement of a student described in section 1 of this chapter.".**
- 35 Page 3, delete line 6.
- 36 Page 3, line 19, after "excluded" insert "**or removed**".
- 37 Page 3, between lines 20 and 21, begin a new paragraph and insert:
- 38 **"Sec. 8. This chapter does not preclude school personnel from**

1 taking any action permitted by another law that is reasonably
 2 necessary to maintain a safe, orderly, and effective educational
 3 environment.

4 **Sec. 9. Any decision concerning a student who:**

5 **(1) is described in section 1 of this chapter; and**

6 **(2) is a child with a disability (as defined in IC 20-35-1-2);**

7 **regarding the student's placement shall be made in accordance**
 8 **with the student's individualized education program and in**
 9 **compliance with state and federal law.**

10 SECTION 4. IC 20-33-2-9, AS AMENDED BY P.L.185-2006,
 11 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 JULY 1, 2009]: Sec. 9. (a) The governing body of each school
 13 corporation shall designate the appropriate employees of the school
 14 corporation to conduct the exit interviews for students described in
 15 section ~~6(a)(3)~~ **6(3)** of this chapter. Each exit interview must be
 16 personally attended by:

17 (1) the student's parent;

18 (2) the student;

19 (3) each designated appropriate school employee; and

20 (4) the student's principal.

21 (b) A student who is at least sixteen (16) years of age but less than
 22 eighteen (18) years of age is bound by the requirements of compulsory
 23 school attendance and may not withdraw from school before graduation
 24 unless:

25 (1) the student, the student's parent, and the principal agree to the
 26 withdrawal;

27 (2) at the exit interview, the student provides written
 28 acknowledgment of the withdrawal that meets the requirements
 29 of subsection (c) and the:

30 (A) student's parent; and

31 (B) school principal;

32 each provide written consent for the student to withdraw from
 33 school; and

34 (3) the withdrawal is due to:

35 (A) financial hardship and the individual must be employed to
 36 support the individual's family or a dependent;

37 (B) illness; or

38 (C) an order by a court that has jurisdiction over the student.

(c) A written acknowledgment of withdrawal under subsection (b) must include a statement that the student and the student's parent understand that withdrawing from school is likely to:

- (1) reduce the student's future earnings; and
- (2) increase the student's likelihood of being unemployed in the future.

(d) At the exit interview, the employee designated by the school corporation under subsection (a) to conduct the exit interview shall provide to the student's parent a copy of the written form developed under subsection (e) describing services offered at the Indiana Soldiers' and Sailors' Children's Home established under IC 16-33-4-5. The student's parent shall provide written acknowledgment that the parent received a copy of the form.

(e) For the purposes of subsection (d), the department, in consultation with the superintendent of the Indiana Soldiers' and Sailors' Children's Home, shall develop a form describing the services provided by the Indiana Soldiers' and Sailors' Children's Home. The department shall provide each school corporation with a sufficient number of copies of the form developed under this subsection.

SECTION 5. IC 20-33-8-19.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 19.5. (a) In addition to the notice of the right to appear at an expulsion meeting provided under section 19(b) of this chapter, the superintendent shall provide to a student's parent a copy of the written form described in subsection (b) informing the student's parent of services provided by the Indiana Soldiers' and Sailors' Children's Home established under IC 16-33-4-5.**

(b) For the purposes of subsection (a), the department, in consultation with the superintendent of the Indiana Soldiers' and Sailors' Children's Home, shall develop a form describing the services provided by the Indiana Soldiers' and Sailors' Children's Home. The department shall provide each school corporation with a sufficient number of copies of the form developed under this subsection."

Page 3, after line 28, begin a new paragraph and insert:

"SECTION 7. IC 31-34-20-1, AS AMENDED BY P.L.146-2008,

SECTION 602, IS AMENDED TO READ AS FOLLOWS
 [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) Subject to this section and
 section 1.5 of this chapter, if a child is a child in need of services, the
 juvenile court may enter one (1) or more of the following dispositional
 decrees:

(1) Order supervision of the child by the department.

(2) Order the child to receive outpatient treatment:

(A) at a social service agency or a psychological, a psychiatric,
 a medical, or an educational facility; or

(B) from an individual practitioner.

(3) Remove the child from the child's home and authorize the
 department to place the child in another home or shelter care
 facility. Placement under this subdivision includes authorization
 to control and discipline the child.

(4) Award wardship of the child to the department for
 supervision, care, and placement.

(5) Partially or completely emancipate the child under section 6
 of this chapter.

(6) Order the child's parent, guardian, or custodian to complete
 services recommended by the department and approved by the
 court under IC 31-34-16, IC 31-34-18, and IC 31-34-19.

(7) Order a person who is a party to refrain from direct or indirect
 contact with the child.

(8) Order a perpetrator of child abuse or neglect to refrain from
 returning to the child's residence.

**(9) Order the department to place the child in the Indiana
 Soldiers' and Sailors' Children's Home established under
 IC 16-33-4-5 after considering:**

(A) the best interests of the child; and

**(B) the desirability of keeping the child with the child's
 siblings.**

**The juvenile court may order the child to be placed in the
 Indiana Soldiers' and Sailors' Children's Home regardless of
 whether a less expensive alternative exists if the juvenile court
 determines that the placement in the Indiana Soldiers' and
 Sailors' Children's Home is in the best interest of the child.**

(b) A juvenile court may not place a child in a home or facility that
 is located outside Indiana unless:

(1) the placement is recommended or approved by the director of the department or the director's designee; or

(2) the juvenile court makes written findings based on clear and convincing evidence that:

(A) the out-of-state placement is appropriate because there is not a comparable facility with adequate services located in Indiana; or

(B) the location of the home or facility is within a distance not greater than fifty (50) miles from the county of residence of the child.

(c) If a dispositional decree under this section:

(1) orders or approves removal of a child from the child's home or awards wardship of the child to the department; and

(2) is the first juvenile court order in the child in need of services proceeding that authorizes or approves removal of the child from the child's parent, guardian, or custodian;

the juvenile court shall include in the decree the appropriate findings and conclusions described in IC 31-34-5-3(b) and IC 31-34-5-3(c).

SECTION 8. [EFFECTIVE UPON PASSAGE] (a) The definitions in IC 2-5-30, as added by this act, apply throughout this SECTION.

(b) Before June 1, 2009, the voting members of the commission established by IC 2-5-30-3, as added by this act, shall be appointed.

(c) The commission shall hold its first meeting in July of 2009 and conduct business the commission considers necessary.

(d) The department of child services, in consultation with the department of administration and the department of homeland security, shall determine what modifications or repairs would be necessary in order to license a private entity to operate the children's home under a public-private agreement as a residential child care establishment under IC 31-27. Before August 1, 2009, the department of child services must provide the commission a report, which must include:

(1) a detailed summary of repairs or maintenance of buildings;

(2) fire safety modifications; and

(3) any other recommendations or requirements;

that would be necessary in order to license a private entity to operate the children's home under a public-private agreement as

- 1 **a residential child care establishment under IC 31-27.**
- 2 **(e) This SECTION expires July 1, 2010.**
- 3 **SECTION 9. An emergency is declared for this act."**
- 4 Renumber all SECTIONS consecutively.
 (Reference is to SB 191 as printed February 6, 2009.)

and when so amended that said bill do pass.

Representative Oxley